

State of Arkansas

77th General Assembly

A Bill

HOUSE BILL

Third Extraordinary Session, 1989

CALL ITEM 201052

By: Representatives Lipton, Ramsey, Newman, Glover,  
Forgey, and Arrington

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 12-9-108(a) TO ELIMINATE THE REQUIREMENT THAT A LAW ENFORCEMENT OFFICER'S ACTION MAY BE HELD INVALID UNLESS HE IS IN STRICT COMPLIANCE THE STANDARDS AND QUALIFICATIONS OF THE LAW AND TO REQUIRE ONLY SUBSTANTIAL COMPLIANCE WITH THE STANDARDS AND QUALIFICATIONS; TO REPEAL ARKANSAS CODE 12-9-108(a) AB INITIO AND MAKE EVIDENCE OF THE VIOLATIONS INADMISSIBLE IN ANY JUDICIAL PROCEEDING; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Subsection (a) of Arkansas Code 12-9-108 is hereby amended to read as follows:

"(a) (1) A person shall substantially meet the standards and qualifications set forth in this subchapter and any made by the Arkansas Commission on Law Enforcement Standards and Training; however, any action which is taken by a person who does not substantially meet said standards and qualifications shall not be held invalid and shall not provide a basis for holding any evidence derived from such action inadmissible in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a state, or a political subdivision thereof.

(2) Any action taken in violation of said subsection shall not be held invalid and any evidence obtained from action in violation of said subsection shall not be held inadmissible in any proceeding."

SECTION 2. Arkansas Code 12-9-108(a) is hereby repealed ab initio. Furthermore, any action taken in violation of said subsection shall not be held invalid and any evidence obtained from action in violation of said

subsection shall not be held inadmissible in any proceeding.

SECTION 3. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. EMERGENCY. It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas meeting in the 1989 Third Extraordinary Session that confusion exists regarding Arkansas Code Annotated § 12-9-108(a) which provided for the invalidity of actions taken by persons who failed to meet the standards and qualifications as provided for in said subsection; that as a result of the confusion regarding this subsection, law enforcement has been severely hampered; that unless this act is given immediate effect some persons guilty of criminal activity will apparently be unpunished; and that unless this act is given immediate effect, the intent of the General Assembly will be defeated. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.